THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.24068 of 2005

Dated 15-12-2005

Between:

K. Mahipal Reddy.

..... PETITIONER

AND

The Election Authority/District Collector, Karimnagar,

and three others.

.....RESPONDENTS

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION No.24068 of 2005

O R D E R:

When W.V.M.P.No.3380 of 2005 filed by the fourth respondent in the writ petition is taken up for consideration, at the request of the learned counsel for both the parties, the main writ petition itself is heard and decided.

It is not in dispute that election to the Managing Committee of the third respondent-Society was held on 22-10-2005 in which the petitioner was elected as Member from Ward No.7 whereas the fourth respondent was elected as Member from Ward No.13 and subsequently the second respondent-Election Officer convened a meeting on 23-10-2005 for election to the office bearers of the Society. As per the election schedule, time for receipt of nominations was fixed as between 9-00 A.M. and 11-00 A.M. The specific case of the petitioner is that he filed his nomination for the post of President at 10-40 A.M., which was the only valid nomination received within the time prescribed under the election schedule. However, the Election Officer has erroneously received the nomination filed by the fourth respondent at 11-25 A.M. and in those circumstances, he gave a representation on the same day raising an objection as to the receipt of the nomination of the fourth respondent. The petitioner contends that in spite of the objection raised by him, the second respondent-Election Officer postponed the meeting to
24-10-2005 and proceeded with the election, in which the fourth respondent was elected as President. Questioning the said action,

this writ petition is filed.

This Court, while ordering Rule Nisi on 10-11-2005, in W.P.M.P.No.30928 of 2005 granted interim stay of all further proceedings. Though no counter-affidavit has been filed by the Official respondents 1 to 3, the fourth respondent has filed a counter-affidavit, in which it is stated that since there was no quorum on 23-10-2005, the Election Officer has adjourned the meeting to 24-10-2005 and on 24-10-2005, after completion of election process in accordance with law, he was elected as President. It is also stated that the petitioner has already filed O.P.No.42 of 2005 under Section 61 (3) of the Andhra Pradesh Cooperative Societies Act, 1964 (for short 'the Act') before the Cooperative Tribunal, Hanamkonda, seeking to set aside the election of the fourth respondent as President of the Society. It is also stated that he was impleaded as the fourth respondent in O.P.No.42 of 2005, in which he already entered his appearance and contesting the same. It is not in dispute that Section 61 (3) of the Act specifically provides that every dispute relating to, or in connection with, any election to a committee of a society shall be referred for decision to the Tribunal having jurisdiction over the place where the main office of the Society is situated, whose decision thereon shall be final. The petitioner having availed such an alternative remedy available under the Statute cannot maintain the writ petition under Article 226 of the Constitution of India. As can be seen from the material on record, the matter involve several disputed questions of fact as to whether there was proper quorum on 23-10-2005 and whether the second respondent was justified in postponing the election to 24-10-2005, which are to be decided by the Tribunal, in which the election petition filed by the petitioner is pending. In the circumstances, I am not inclined to keep the writ petition pending any longer.

Accordingly, the writ petition is disposed of granting leave and liberty to the petitioner as well as the fourth respondent to pursue O.P.No.42 of 2005 which is pending before the Cooperative Tribunal,

Hanamkonda. The Tribunal shall proceed with O.P. in accordance with law and decide the same expeditiously. Needless to mention that the interim stay granted earlier shall stand vacated. No costs.

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(G. ROHINI, J)

Date:15 -12-2005

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